IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 24 OF 2005

SHRI ANTONIO MENEZES AND ANR., ...Appellants

Versus

SHRI VITHOBA S.SHETYE AND 3 ORS., ...Respondents

Mr. M. B. D'Costa, Senior Advocate with Mr. J. A. Lobo, Advocate for the appellants.

Mr. D. V. Patkar, Advocate for the respondent No.1.

Coram:- R. M. LODHA, J.

Date:- 26th October, 2005

P.C.

Confronted with the difficulty that the second appeal is not maintainable as the Appeal Court has remanded the matter to the trial Court for fresh decision, after framing additional issues and that the appeal from such order is competent under Order 43(1)(u) of the Code of Civil Procedure, the learned Senior Counsel for the appellants prays for wihdrawal of the second appeal with liberty to the appellants to file appeal from order against the impugned order dated 14/10/2004 passed by the Additional District Judge, Mapusa.

The prayer is fair and reasonable.

The second appeal is allowed to be withdrawn with liberty to file appeal from order. Office is directed to return the certified copies of the Order dated 14.10.2004 passed by the Additional District Judge and the Judgment dated 31.12.2003 passed by the Civil Judge, Junior Division, Bicholim, after retaining xerox copies thereof on the file of the second appeal.

The second appeal is disposed of accordingly.

R. M. LODHA, J.

ssm.